

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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JAMES E. & WILMA R.	)	
PILGERAM,	)	DOCKET NO.: PT-1997-2
Appellant,	)	
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE	)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
Respondent.	)	<u>FOR JUDICIAL REVIEW</u>

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The above-entitled appeal came on regularly for hearing on the 8th day of December, 1999, in the City of Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law. The taxpayer, represented by James Pilgeram , presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Robert J. Anderson, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of

this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Improvements only located in the NE 1/4E1/2 NW1/4 E1/2 SW1/4 SEC 18 T17N R4E, Cascade County, Montana. Further identified by the assessor code #4370500.

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$146,920 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board requesting a reduction in value to \$90,000 for the improvements.

5. The County Board reduced the value of the improvements to \$132,472.

6. The taxpayer then appealed that decision to this Board.

7. The DOR did not appeal that decision of the local board.

#### TAXPAYER'S CONTENTIONS

Mr. Pilgeram testified that the taxes on this property have risen over 1,000% since 1964. There are several buildings involved in this appeal which are located on this

agricultural property. There is the original house which was built in 1908, a barn built in 1903, a barn built in 1903, a barn built in 1903, a building built in 1910, and one that the construction date is unknown but it is at least prior to 1923.

The taxpayer stated that the buildings are not used for much except storage, and there are no foundations under any of them.

The residence that is occupied by the Pilgerams is also a part of the appeal as is a steel building used as shop.

Mr. Pilgeram referred to the original house as a sort of "landmark" with historical and sentimental value. It is not being used for anything and is not occupied. The old outbuildings themselves have minimal wiring for lights only and do provide shelter for livestock and hay storage.

Mr. Pilgeram has had the property appraised by two separate appraisers and both of them arrived at total property values including the land at under \$200,000. The land was valued as 367 acres at \$150 per acre, and 153 acres at \$200, for a total value of \$85,650. The machinery was valued at \$15,500. Using these figures, and the \$200,000 appraisal value leaves \$98,850 for the improvements.

The taxpayer attributed the most value in his requested improvement value on the residence. The house was built in 1970, and has a basement and double car attached garage. The house has two bathrooms, one of which was plumbed

in utilizing materials from the old original residence. The insulation in the ceiling is blown in insulation of shredded paper and the walls have four inch blanket insulation. Mr. Pilgeram stated that the house has had good care and is of good construction quality.

#### DOR CONTENTIONS

The DOR presented a copy of the property record card for the subject property (Ex A). Mr. Anderson submitted copies of photographs of the property (Ex B), and the calculations for the 45 x 90 building built in 1981 (Ex C). Mr. Anderson explained the characteristics of the residence as described on the property record card.

The values of the individual structures were presented by Mr. Anderson. They are as follows:

The residence.....	\$116,680
Metal Shop.....	\$23,956 (CTAB reduced to \$10,206)
20 X 36 Barn.....	\$1,490
40 X 40 Calf Barn.....	\$1,000 (CTAB value)
Old house 20 X 30.....	\$970
Grain Bin.....	\$810

Mr. Anderson stated that the DOR does not value agricultural properties by using a market model approach. The

improvements are valued by using the cost approach. The subject property costs have been modified by the application of an Economic Condition Factor (ECF). He stated that the ECF is determined by the DOR based on sales of property in an area, as compared to the costs to build a similar structure. In this case the ECF is 120%, or an increase of 20% over the determined costs associated with building the improvements. Mr. Anderson stated that this is a method used to correlate the two values where as in this case the market would indicate that the demand influences would create a higher value. He added that agricultural properties are not market modeled because of the many different values associated with agricultural lands, forested lands, productive values, and the fact that the improvements themselves are generally not sold on an individual basis. The ECF however is applied uniformly to homes in a neighborhood, but not to the agricultural outbuildings or land.

#### BOARD'S DISCUSSION

The parties were in general agreement concerning the physical description and characteristics of the improvements. The record indicates that there remains only one issue that is causing the disparity in value between the DOR appraisal and what the taxpayer believes the values to be.

The entire neighborhood, a large area surrounding the

Great Falls area, is used in the determination of the ECF that has been applied to the subject property. That includes sales of properties that may be on one acre, or five acres, or a residential tract size lot. That may also include those properties with water influence (although Mr. Anderson stated that properties directly on the river neighborhoods are not included), those with recreational use potential or direct access to subdivided tract services. Those types of properties that are impacted in various ways that influence the market prices paid. The ECF is calculated by surveying sales, yet the sales of agricultural properties are not included in the sales history files that are used to arrive at the ECF. It is true that the application of the ECF is applied fairly and consistently, but in the opinion of this Board it is determined without the inclusion of agricultural property sales. If they had been the ECF may very well have been driven either up or down based on those sales.

The ECF is a market adjustment factor. The International Association of Assessing Officers (IAAO) states:

Market adjustment factors are often required to adjust values obtained from the cost approach to the market. These adjustments should be applied by type of property and area based on sales ratio studies or other market analyses. Accurate cost schedules,

condition ratings, and depreciation schedules will minimize the need for market adjustment factors.

(IAAO, 1990, Property Appraisal and Assessment Administration, pages 311-312)(Emphasis applied)

Land values are not considered, because the factor is only applied to improvements valued by the cost approach.

An ECF for a neighborhood is derived from sales; but there was no evidence or testimony from the DOR to indicate the ECF applied was developed from sales of properties of the same type. It follows, therefore, that the ECF ought to be removed.

It is the opinion of this Board that the appeal shall be granted in part and denied in part and the decision of the Cascade County Tax Appeal Board affirmed in part and reversed in part. The values on the outbuildings as determined by the local board shall remain as arrived at in their decision. The value of the residence shall be as determined without the application of the ECF adjustment at \$97,232. Based on the evidence and testimony in the record this is a total value of \$111,708 for the improvements that are the subject of this appeal.

#### CONCLUSIONS OF LAW

1. **15-8-111. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100%

of its market value except as otherwise provided.

(2)(a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

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#### ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the assessor of that county at the 1997 tax year value of \$111,708 for the improvements as determined by the Board in compliance with the provisions of this order.

Dated this 22nd day of January, 1999.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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PATRICK E. McKELVEY, Chairman



( S E A L )

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GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.